

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

FAIR ISAAC CORPORATION, a ) Case No. 16-cv-1054 (DTS)  
Delaware corporation, )  
) )  
Plaintiff, )  
) **Jury Trial Demanded**  
v. )  
) )  
FEDERAL INSURANCE COMPANY, )  
an Indiana corporation and ACE )  
AMERICAN INSURANCE )  
COMPANY, a Pennsylvania )  
corporation, )  
) )  
Defendants. )

**PLAINTIFF FAIR ISAAC CORPORATION’S MEMORANDUM IN SUPPORT  
OF ITS MOTION TO REDACT SELECT PORTIONS OF TRIAL TRANSCRIPTS**

Plaintiff Fair Isaac Corporation (“FICO”) moves pursuant to Fed. R. Civ. P. 5.2(e) to redact select confidential and trade secret information from the publicly available trial transcripts and requests that this Court enter an order directing that only the redacted transcript shall be docketed.

FICO's claims against Defendants Federal Insurance Company and ACE American Insurance Company were tried to a jury and to the Court from February 15, 2023 to March 10, 2023. The trial transcripts were made available to the parties on March 14, 2023. [Dkt. 1176-1191.] Review of the hearing transcripts revealed the need to redact selected portions referencing FICO's proprietary pricing information, FICO's clients' identifications, and provisions of FICO license agreements with non-parties. Such information reflects FICO's confidential and trade secret information. Throughout this

case, FICO has sought to protect this information. [Dkt. 664, 794, 807, 924.] This Court has previously allowed this information to be sealed in document and briefing form [Dkt. 665, 837, 838, 926] and sealed in a prior hearing [Dkt. 1118]. Indeed, this information remained confidential throughout the trial as, despite the Courtroom not being sealed to the public, individuals sitting in the gallery who were not part of either trial team were predominantly attorneys and staff members of the participating law firms. Consistent with the Court's previous orders protecting FICO's confidential and trade secret information, FICO respectfully requests that this Court grant its motion to redact select portions of the trial transcript.

The common law right of access to judicial records is not absolute and must be weighed against the parties' interests in maintaining confidentiality of sensitive information. *Klein v. Prime Therapeutics, LLC*, No. 17-cv-1884 (PAM/SER), 2018 U.S. Dist. LEXIS 55767, at \*5-6 (D. Minn. Apr. 2, 2018) (internal citations omitted). FICO's pricing information, including what price it gave a specific customer, may be used by competitors to compete against FICO and by customers to demand better pricing. Courts have allowed trial transcripts to be made publicly available in redacted form to protect such confidential information. *Wood v. Robert Bosch Tool Corp.*, No. 4:13cv01888 PLC, 2016 U.S. Dist. LEXIS 165612 (E.D. Mo. Nov. 30, 2016) (granting motion to seal portions of trial transcript where party's interest in protecting confidential commercial information outweighed public interest); *Sky Angel U.S., LLC v. Discovery Communs., LLC*, Civil Action No. DKC 13-0031, 2016 U.S. Dist. LEXIS 187680 (D. Md. Aug. 15, 2016) (sealing testimony regarding third-party licenses); *Richardson v. Mylan Inc.*, No.

09-CV-1041-JM (WVG), 2011 U.S. Dist. LEXIS 23969 (S.D. Cal. Mar. 9, 2011) (sealing trial transcript where revelation “could have serious consequences for [the party’s] business”).

Here, FICO requests only the redaction of its confidential and trade secret information including, FICO’s proprietary pricing information, FICO’s clients’ identifications, and provisions of FICO license agreements with non-parties. FICO has identified the portions it seeks to redact in its Second Corrected Statement of Redaction. [Dkt. 1211.]

Proposed redacted transcripts reflecting the limited portions of testimony that FICO seeks to redact are attached to the Declaration of Joseph Dubis as **Exhibit A-H**.<sup>1</sup> The public’s access to the transcript of the trial proceedings will be only minimally impacted as FICO’s proposed redactions are limited in the face of the 2,752 pages of trial transcripts. Moreover, the proposed redactions do not at all impact the public’s ability to understand the bases for the jury’s determination of liability.

FICO conferred with counsel for Defendants Federal Insurance Company and ACE American Insurance Company regarding this Motion on April 14, 2023. Defendants have indicated that they oppose the present motion.

For the foregoing reasons, FICO requests that the Court enter an Order pursuant to Federal Rule of Civil Procedure 5.2(e): (i) allowing FICO to submit redacted transcripts of Trial Transcript Volumes II, III, IV, V, VIII, IX, XI, XIII to the Court Reporter; and

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<sup>1</sup> A table identifying the proposed redactions is included as Exhibit I.

(ii) directing the Court Reporter to docket only the redacted transcript of those Trial Transcript volumes.

Dated: April 14, 2023

MERCHANT & GOULD P.C.

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